



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R02-OAR-2018-0621, FRL-9985-87-Region 2]

#### Approval of Source-Specific Air Quality Implementation Plans; New Jersey

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve source-specific revisions to the New Jersey State Implementation Plan (SIP) for 8-hour ozone for Paulsboro Refining, Buckeye Port Reading Terminal, Buckeye Pennsauken Terminal, and Phillips 66 Company's Linden facility. The source-specific SIPs address the Reasonably Available Control Technology for volatile organic compounds (VOCs) for external floating roof tanks. The intended effect of these revisions is to address how facilities should meet state regulatory obligations for external floating roof tanks that store VOCs with vapor pressure three (3) or more pounds per square inch absolute to be equipped with a domed roof.

**DATES:** Comments must be received on or before **[Insert date 30 days from date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-R02-OAR-2018-0621, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all

points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, such as the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Linda Longo, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3565, or by email at [longo.linda@epa.gov](mailto:longo.linda@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

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### **I. Background**

The Environmental Protection Agency (EPA) proposes to approve revisions to the New Jersey State Implementation Plan (SIP) for attainment and maintenance of the 8-hour ozone National Ambient Air Quality Standards (NAAQS) for the following major volatile organic compound (VOC) facilities: Paulsboro Refining, Buckeye Port Reading Terminal, Buckeye Pennsauken

Terminal, and Phillips 66 Company's Linden facility. Specifically, under New Jersey Administrative Code (NJAC), Title 7, Chapter 27, Subchapter 16 ("Control and Prohibition of Air Pollution by Volatile Organic Compound"), Section 2 ("VOC Stationary Storage Tanks"), all external floating roof tanks (EFRTs) in Range III with vapor pressure three (3) or more pounds per square inch absolute (psia) and that were in existence on May 18, 2009 must be equipped with a domed roof the first time the tank is degassed after May 19, 2009, and by no later than May 1, 2020. *See* NJAC 7:27-16.2(l)(4). In addition, NJAC 7:27-16.17(a-q) establishes procedures and standards for alternative and facility-specific VOC control requirements. The four relevant facilities were in existence on May 18, 2009, and so absent the currently proposed SIP revisions would be required to dome all EFRTs in accordance with NJAC 7:27-16.2(l)(4), which has already been approved by the EPA into the New Jersey SIP. *See* 75 FR 45483 (August 3, 2010). However, the New Jersey Department of Environmental Protection (NJDEP) reviewed and approved for these facilities alternative VOC control plans and respective Reasonably Available Control Technology (RACT), i.e., analysis of the lowest economically feasible emission limitation, for their EFRTs.

Following NJDEP's review and approval, the EPA reviewed the four facilities' alternative VOC control plans and RACT analyses that include 1) installing domes on 25 out of the 51 EFRTs, and leaving the remaining 26 EFRTs without domes based on the facilities' RACT cost analysis despite the NJAC 7:27-16.2(l)(4) requirements, and 2) installing eight domes after the regulatory due date.

In its SIP revision submittals from all four facilities, NJDEP also identified alternative, non-doming emission reduction strategies for VOC and nitrogen oxides (NO<sub>x</sub>) beyond what would be achieved by doming the 26 EFRTs that would not receive domes under this SIP

revision. However, NJDEP did not request that the EPA approve these additional non-doming measures into the New Jersey SIP revision, and therefore the EPA did not evaluate them for approvability. A full summary of doming and non-doming measures is included in the technical support document (TSD) that is contained in the EPA's docket assigned to this Federal Register notice.

### *Ozone requirements*

In 1997, the EPA revised the health-based NAAQS for 8-hour ozone, setting it at 0.084 parts per million (ppm) averaged over an 8-hour time frame. *See* 62 FR 38856 (July 18, 1997). The EPA revised the 8-hour ozone standard twice since 1997; in March 2008, the EPA revised the standard to 0.075 ppm, and in October 2015 the EPA revised it to 0.070 ppm while retaining the 2008 ozone indicators. *See* 73 FR 16436 (March 27, 2008); 80 FR 65292 (October 26, 2015).

After the EPA establishes a new or revised NAAQS, the Clean Air Act directs the EPA and the states to take steps to ensure that the new or revised NAAQS are met. One of the first steps, known as the initial area designations, involves identifying areas of the country that are not meeting the new or revised NAAQS, as well as the nearby areas that contain emissions sources that contribute emissions to the areas not meeting the NAAQS.

The entire State of New Jersey has been designated as nonattainment since the adoption of the 1997 8-hour ozone NAAQS and is divided into two nonattainment areas. The two nonattainment areas in New Jersey are Philadelphia-Wilmington-Atlantic City (PA-NJ-MD-DE) and New York-Northern New Jersey-Long Island (NY-NJ-CT). These areas are designated as marginal nonattainment and as moderate nonattainment, respectively, for the newest 0.070 ppm 8-hour ozone NAAQS.<sup>1</sup> As such, New Jersey has developed ozone SIPs to attain the standards

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<sup>1</sup> Classifications of these areas for the current and previous ozone NAAQS can be found at 40 CFR § 81.331.

and will consider source-specific SIPs as necessary. A source-specific SIP is submitted by a facility to request approval for source-specific emission limitations, and if approved by the state and the EPA, is incorporated into the state's ozone SIP.

#### *RACT requirements*

RACT is defined as the lowest emission limit that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. Clean Air Act (CAA) sections 172(c)(1), 182(b)(2) and 182(f) require nonattainment areas that are designated as moderate or above to adopt RACT. The entire State of New Jersey is subject to this requirement 1) due to nonattainment area designations for the 8-hour ozone standards (40 CFR 81.331), and 2) because the State of New Jersey is located within the Ozone Transport Region (OTR), a region in which the Clean Air Act requires that state SIPs implement RACT requirements. *See* CAA § 184(b)(1)(B).

In November 2005, the EPA published the final rule that discusses the RACT requirements for the 1997 8-hour ozone standard, and outlined the SIP requirements and deadlines for various areas designated as moderate nonattainment. *See* 70 FR 71612 (November 29, 2005) (the "Phase 2 Rule").

On August 1, 2007, the NJDEP finalized RACT revisions to its SIP to address the 8-hour ozone NAAQS, and the EPA approved those revisions on May 15, 2009. *See* "RACT for the Eight-Hour Ozone NAAQS and other Associated SIP Revisions for the Fine Particulate Matter, Regional Haze, and Transport of Air Pollution," available at <http://www.nj.gov/dep/baqp/sip/8-hrRACT-Final.pdf>; "Approval and Promulgation of Implementation Plans; New Jersey Reasonable Further Progress Plans, Reasonably Available Control Technology, Reasonably Available Control Measures and Conformity Budgets; Final Rule", 74 FR 22837. The NJDEP

believes that significantly higher costs are warranted and should be considered reasonable with respect to available technology than were discussed in the Phase 2 Rule. Although no dollar amount is suggested, the NJDEP identifies five considerations it plans to apply to sources when determining RACT:

- 1) Past New Jersey costs for retrofitting a given control;
- 2) Average RACT cost (dollars per tons reduced) for a control technology and maximum RACT cost. Once a reasonable number of sources in a source category achieve a lower emission level, other sources should do the same;
- 3) The seriousness of the Region's ozone air quality exceedance. For nonattainment areas with higher ozone levels, higher costs for controls are reasonable;
- 4) The seriousness of the need to reduce transported air pollution. As an OTR state, higher costs for RACT are justified; and
- 5) The NJDEP plan for addressing economic feasibility in RACT rules.

The NJDEP's intent is to specify RACT at the lowest emission limit that a reasonable number of similar facilities have already successfully implemented for each source category.

## **II. The EPA's Evaluation of New Jersey's Submittals**

New Jersey regulations at NJAC 7:27-16.2(l)(4), already approved into the ozone SIP, set forth requirements to dome existing EFRTs in Range III on or before May 1, 2020. *See* 75 FR 45483 (August 3, 2010). The four facilities' source-specific SIP revisions are before the EPA for approval because they would allow 26 EFRTs to avoid doming and would extend the deadline for installing eight domes. The NJDEP submittal relies on documents submitted by the four facilities to New Jersey reviewing the cost, feasibility, and projected emissions reductions of doming tanks similar in diameter when deciding which tanks are optimal for doming. Some of

the facilities' tanks are smaller in dimension and contain organic liquids of lower VOC concentrations, and thus doming these tanks would result in spending comparatively much more for a substantially smaller reduction in VOC emissions.

The EPA has determined that the doming analyses identified in the source-specific SIP revisions are consistent with the NJDEP's VOC RACT regulation, which is incorporated into the NJ SIP. The reader is referred to the TSD for a detailed discussion of the EPA's evaluation of the source-specific SIP submittal. Below is a summary:

a. Paulsboro Refining

On December 10, 2015, the NJDEP submitted to the EPA proposed revisions to the New Jersey SIP for ozone specifically providing an alternative VOC control plan for the Paulsboro Refining facility located at 800 Billingsport Road, Paulsboro, New Jersey. Paulsboro Refining owns and operates 21 EFRTs in Range III with vapor pressure three (3) or more psia. According to the facility's RACT analysis, doming the total inventory of 21 EFRT is estimated to cost between \$19,000 and \$149,000 per ton of VOC emissions reduced. The cost per ton to dome all 21 EFRTs exceeds what the state defines as economically feasible for RACT.

*Proposed Paulsboro Refining Source-Specific Doming Requirements*

The EPA is proposing to approve a source-specific SIP revision allowing the facility not to dome eleven of its 21 EFRTs that are in Range III, and to allow the facility to complete doming of five EFRTs beyond the regulatory deadline of May 1, 2020. Paulsboro Refining has already installed three domes (Tanks 724, 1319, and 1115), and will install two additional domes (Tanks 2173 and

1064<sup>2</sup>) by the regulatory deadline. The facility is scheduled to install five more domes by 2028 according to the following schedule:

- Tank 1063 by Dec. 31, 2021
- Tank 1116 by Dec. 31, 2023
- Tank 1320 by Dec. 31, 2025
- Tank 1065 by Dec. 31, 2026
- Tank 1066 by Dec. 31, 2028

In total, under the proposed source-specific SIP revision, the facility will dome ten out of 21 EFRTs in Range III, including Tanks 724, 1319, 1115, 2173, 1064, 1063, 1116, 1320, 1065 and 1066. The eleven EFRTs not to be domed are Tanks 725, S02, 1023, 1027, 2869, 2940, 2941, 3174, SSO, SSI, and SS2.

b. Buckeye Port Reading Terminal and Buckeye Pennsauken Terminal

On August 15, 2014, the NJDEP submitted to the EPA proposed revisions to the New Jersey SIP for ozone specifically providing an alternative VOC control plan for both the Buckeye Port Reading Terminal and Pennsauken Terminal, located at 750 Cliff Road, Woodbridge, New Jersey and 123 Derosse Avenue, Pennsauken, New Jersey respectively. Buckeye owns and operates eight EFRTs in Range III with vapor pressure three (3) or more psia at its Port Reading Terminal that are part of this proposed SIP revision,<sup>3</sup> and one such EFRT at its Pennsauken

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<sup>2</sup> At the time NJDEP submitted its source-specific SIP revision for Paulsboro Refining, Tank 1064 was scheduled for doming by December 31, 2024. However, recent facility developments confirmed by NJDEP indicate that Tank 1064 was taken out of service, rebuilt, and is scheduled for doming by the end of 2018.

<sup>3</sup> The Port Reading terminal previously had one additional EFRT. However, under the proposed SIP revision Buckeye retrofitted that Port Reading EFRT to an internal floating roof tank (Tank 1177) due to changes in facility operational needs (and an internal floating roof tank does not require a dome). Eight EFRTs now remain at the facility that are covered by the proposed SIP revision.



Terminal. According to company's Port Reading RACT analysis, doming the facility's total inventory of eight EFRTs is estimated at \$60,000 per ton of VOC emissions reduced, which exceeds what the state defines as economically feasible for RACT. The company's Pennsauken RACT analysis likewise estimated the cost of doming its single EFRT at \$60,000 per ton of VOC emissions reduced.

#### *Proposed Buckeye Source-Specific Doming Requirements*

The EPA is proposing to approve a source-specific SIP revision allowing the Port Reading facility not to dome four EFRTs that are in Range III and to complete doming of two EFRTs beyond the regulatory deadline of May 1, 2020.<sup>4</sup> Of the eight relevant Port Reading EFRTs, Buckeye has already domed one EFRT (Tank 7935) and will install one additional dome (Tank 1222) by the regulatory deadline. Under this SIP revision, the Buckeye facilities are scheduled to install domes on the following EFRTs in Range III by 2028 according to the following schedule:

- Tank 1219 by March 8, 2027
- Tank 1178 by Sept. 25, 2028

In addition, the EPA is proposing to approve a source-specific SIP revision allowing the Pennsauken facility not to dome its single relevant EFRT (Tank 2018).

In total, the two facilities will dome four out of nine EFRTs in Range III, including Tanks 7935, 1222, 1219, and 1178. The 5 EFRTs not to be domed are Tanks 7930, 7934, 7937, 7945, and 2018.

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In addition, the Port Reading Terminal has at least two additional EFRTs (Tanks 7943 and 7944) that are not part of the proposed SIP revision. In approximately 2012, the company fitted these two Port Reading EFRTs with domes.

<sup>4</sup> As discussed in the prior footnote, the proposed SIP revision also includes conversion of Tank 1177 to an internal floating roof tank that is no longer subject to doming requirements.

c. Phillips 66 Company

On June 15, 2016, the NJDEP submitted to the EPA proposed revisions to the New Jersey SIP for ozone specifically providing an alternative VOC control plan for the Phillips 66 Company facility located at 1400 Park Avenue, Linden, New Jersey (the Linden facility). At the Linden facility, Phillips 66 Company owns and operates 21 EFRTs in Range III with vapor pressure three (3) or more psia. According to the facility's RACT analysis, doming the total inventory of 21 EFRTs is estimated to cost between \$29,000 and \$440,000 per ton of VOC emissions reduced, which exceeds what the state defines as economically feasible for RACT.

*Proposed Phillips 66 Company's Linden Facility Source-Specific Doming Requirements*

The EPA is proposing to approve a source-specific SIP revision allowing the Linden facility not to dome ten EFRTs that are in Range III and to complete doming of one EFRT beyond the regulatory deadline of May 1, 2020. The Linden facility has already installed domes on two EFRTs (Tanks T233 and T239); three additional EFRTs are currently out of service and ready for doming (Tanks T243, T351, and T250) and the facility will install five additional domes (Tanks T241, T352, T235, T249, and T353) by the regulatory deadline. The Linden facility is scheduled to install a dome on one additional tank (Tank T234) by December 31, 2024, beyond the regulatory due date.

In total, the facility will dome a total of eleven out of 21 EFRTs in Range III, including Tanks T233, T239, T243, T351, T250, T241, T352, T235, T249, T353 and T234. The 10 EFRTs not to be domed are Tanks T52, TI05, TI19, TI43, T224, T349, T350, T354, T355, and T356.

**III. Proposed Action**

The NJDEP determined that the four facilities discussed above could avoid doming 26 EFRTs because it was not economically feasible to dome the four facilities' total inventory of 51 EFRTs.

Specifically, the EPA proposes to approve the NJDEP SIP revisions for 8-hour ozone to allow the Paulsboro facility not to dome eleven EFRTs; the Buckeye facilities not to dome five EFRTs; and the Phillips 66 Company facility not to dome ten EFRTs. The EPA is also proposing to approve a deadline extension for doming nine EFRTs, as previously discussed. This SIP revision would still require the facilities to dome 25 EFRTs (and convert one EFRT to an internal floating roof tank).

Additional non-doming measures will be implemented to make up the foregone VOC emission reductions that would have occurred in doming the full inventory of EFRTs. However, the NJDEP did not request that the EPA approve the additional non-doming measures into the New Jersey SIP, therefore the EPA did not evaluate them for approvability and proposes no action on these measures today.

#### **IV. Incorporation by Reference**

In this rule, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference the provisions described above in Section III (Proposed Action).

The EPA has made, and will continue to make, these documents generally available electronically through <http://www.regulations.gov> and in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to

approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175, because the SIP is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

**List of Subjects 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen Dioxide, Intergovernmental Relations, Ozone, Reporting and recordkeeping requirements, Volatile Organic Compounds.

**Authority:** 42 U.S.C. 7401 et seq.

Dated: October 18, 2018.

Peter D. Lopez,  
Regional Administrator,  
Region 2.

[FR Doc. 2018-23575 Filed: 10/26/2018 8:45 am; Publication Date: 10/29/2018]